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STIP TO EXTEND TIME TO FILE MTN FOR CLASS CERT. & CONTINUE HR'G DATE
Case No. C 08-4312 JW

1 On August 12, 2009, the parties filed a stipulation requesting that the Court extend the
2 briefing completion date on Plaintiffs' motion for class certification to March 8, 2010 and
3 continue the hearing on Plaintiffs' motion to March 22, 2010 in light of (1) NVIDIA's
4 anticipated motion to dismiss, set for hearing on October 19, 2009, which the parties believed
5 would result in adjudication of certain issues relevant to class certification, and (2) the parties'
6 intention to hold a settlement conference before the end of the year. The Court determined to
7 extend the class certification briefing completion date to January 5, 2010 and continue the
8 hearing on the motion to January 25, 2010. To meet the Court's briefing deadline, Plaintiffs
9 planned to file their class certification motion by October 23, 2009.

10 The parties requested and participated in a status and discovery conference with Judge
11 Lloyd and, based on new circumstances in the litigation set forth below, the parties request that
12 the Court revisit the parties' request to continue the briefing completion date and hearing on
13 class certification to March 2010.

14 Since the filing of the parties' August 12 stipulation, NVIDIA filed its motion to
15 dismiss, and briefing on the motion is completed. NVIDIA also filed a motion to strike class
16 allegations which Plaintiffs did not anticipate. NVIDIA's motion to dismiss challenges every
17 claim in Plaintiffs' Amended Consolidated Complaint ("ACC"). NVIDIA's motion to strike
18 seeks to strike all class allegations in the ACC. The Court's rulings on NVIDIA's motions may
19 affect class certification, class definition and the consideration of sub-classes.

20 Also since the filing of the parties' prior stipulation, the parties have set a date certain
21 for mediation and agreed upon and engaged a mediator. On December 15, 2009, NVIDIA is
22 mediating with its insurance carrier over a coverage dispute and, on December 16, 2009, the
23 parties will use the same mediator for this action. The parties wish to prevent the need to, and
24 expense of, notifying the class twice in the event (a) a class is certified requiring general notice,
25 and (b) subsequent class notice if the case settles. If the mediation process is successful then
26 there will only be the expense of single class-wide settlement notice, and class certification will
27 likely not be contested.

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STIP TO EXTEND TIME TO FILE MOT. FOR CLASS CERT. & CONTINUE HR'G DATE Case No. C 08-4312 JW	- 1 -
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1 Finally, the parties anticipate that, in light of the discovery received to date, there may
2 be additional factual matters beyond those identified in the ACC raised during the class
3 certification process. The parties therefore believe that factual issues may arise during class
4 certification in this case. As discussed with Magistrate Judge Lloyd, following extended efforts
5 to narrow issues, Plaintiffs anticipate filing a motion to compel production of certain
6 documents that implicate complex and multi-party common interest and joint defense privilege
7 issues in the next 1-2 weeks, and the implicated documents may bear on class certification
8 issues. Accordingly, the parties believe that additional discovery and a more developed factual
9 record would be useful before class certification is briefed and adjudicated.

10 For these reasons, the parties respectfully request that the Court revisit extending
11 completion of class certification briefing to March 8, 2010 and continue the hearing to March
12 2010.

13 IT IS STIPULATED AND AGREED, by and between Plaintiffs and NVIDIA, through
14 their counsel of record, subject to Court approval, that:

15 1. All briefing on the motion for class certification shall be completed by March 8,
16 2010;

17 2. The current January 5, 2010 deadline for completion of briefing for class
18 certification shall be vacated; and

19 3. The hearing date for the motion for class certification currently set for January
20 25, 2010 at 9:00 a.m. shall be vacated and a new hearing date for the motion for class

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1 certification shall be scheduled for March 22, 2010 at 9:00 a.m., or a date convenient to the
2 Court.

3 DATED: October 15, 2009

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14 DATED: October 15, 2009

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27 PURSUANT TO STIPULATION, IT IS SO ORDERED

28 Plaintiff's anticipated Motion for Class Certification is set for **March 22, 2010 at 9 a.m.**
29 Although the parties may stipulate to a briefing schedule, all briefing shall be completed on or
30 before **February 22, 2010.**

31 Dated: October 22, 2009


32 JAMES WARE
33 United States District Judge